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**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
**SAN FRANCISCO DIVISION**

RICHARD KADREY, *et al.*,  
Individual and Representative Plaintiffs,  
  
v.  
  
META PLATFORMS, INC., a  
Delaware corporation,  
  
Defendant.

Case No. 3:23-cv-03417-VC-TSH

**NOTICE OF MOTION AND  
MOTION FOR LEAVE TO FILE  
AMICUS CURIAE BRIEF AND  
MEMORANDUM OF LAW IN  
SUPPORT**

Date: May 1, 2025  
Time: 10:00 a.m.  
Dept: Courtroom 4, 17th Floor  
Judge: Vince Chhabria  
Trial Date: None  
Date Action Filed: July 7, 2023

PLEASE TAKE NOTICE that upon the annexed Declaration of Rebecca Tushnet, and the proposed brief amicus curiae annexed thereto, Amici IP Law Professors shall and hereby do move this Court, at a date and time to be determined by the Court, for leave to file the proposed brief amicus curiae.

## MEMORANDUM OF POINTS AND AUTHORITEIS

The *amici* intellectual property law professors listed in the Appendix to the proposed *amicus curiae* brief attached as Exhibit A to the Declaration of Rebecca Tushnet respectfully request leave to file the brief in support of defendants' motion for summary judgment.<sup>1</sup>

### I. INTEREST OF AMICI CURIAE

*Amici* are professors at law schools across the country with expertise in intellectual property law and the First Amendment. *Amici* have no personal interest in the outcome of this case. They share a professional interest in seeing copyright and other intellectual property law develop in a way that serves the broader public interest.

*Amici* have written and taught extensively on topics in copyright and other intellectual property law. Because of their experience with the issues raised by this case, *amici* are uniquely positioned to provide the Court with a perspective that reflects the broader public interest in copyright's fair use doctrine.

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<sup>1</sup> *Amici* state, as contemplated by the analogous Fed. R. App. P. Rule 29(a)(4)(D), that no party or party's counsel authored this brief in whole or in part, or contributed money that was intended to fund preparing or submitting this brief. No person other than *amici* or their counsel contributed money that was intended to fund preparing or submitting this brief.

## II. ARGUMENT

It is “within the Court's discretion” whether to allow amici to file a brief, and courts generally exercise “great liberality” in permitting amicus briefs. *California by & through Becerra v. United States Dep’t of the Interior*, 381 F. Supp. 3d 1153, 1164 (N.D. Cal. 2019) (citation omitted). “[I]t is inapposite that an amicus brief raises the same issues as the parties’ briefs. The salient question is whether such brief is helpful to the Court.” *Id.* As the court noted in *NetChoice, LLC v. Bonta*, 2023 WL 6131619 (N.D. Cal. Sept. 18, 2023), “Amici need show only that their participation is useful to the court. The ‘classic role’ of amici curiae encompasses ‘assisting in a case of general public interest, supplementing the efforts of counsel, and drawing the court's attention to law that escaped consideration.’” *Id.* at \*1 (citation omitted); *see also NGV Gaming, Ltd. v. Upstream Point Molate, LLC*, 355 F. Supp. 2d 1061, 1067 (N.D. Cal. 2005) (“District courts frequently welcome amicus briefs from non-parties concerning legal issues that have potential ramifications beyond the parties directly involved.”).

The proposed *amici* brief is useful. It will assist the Court in addressing defendants’ motion for summary judgment because *amici* offer independent expertise and fresh perspective on the legal and policy issues raised by this case. *Amici* collectively have published numerous scholarly articles about copyright, fair use, and the First Amendment. In their proposed brief, *amici* elaborate on the relationship between large-scale copying to create new resources and copyright law.

The proposed brief is timely and will not cause any delay. Before filing, counsel for amicus sought consent from both parties. Defendants consent to its filing. Counsel contacted plaintiffs’ lawyers listed on the caption on March 26, 2025, by email, but have received no response as of the time of filing. The proposed brief is being submitted to the court within time period provided by the analogous provision of the Fed. R. App. P., Rule

1 29(a)(6) (within seven days after filing of the brief of the party being supported) and it is  
2 limited to half the length of the main briefs.

3 For the foregoing reasons, *amici* request that the Court grant leave to file the  
4 proposed *amici curiae* brief, attached as Exhibit A to the Declaration of Rebecca Tushnet.

5 Dated: March 31, 2025

6 By: /s/ Rebecca Tushnet  
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**APPENDIX<sup>2</sup>**

Matthew Sag  
Jonas Robitscher Professor of Law in Artificial Intelligence, Machine Learning, and Data  
Science, Emory University.

Zahr K. Said  
Professor of Law  
Santa Clara University School of Law

Jessica Silbey  
Professor of Law, Boston University School of Law

Rebecca Tushnet  
Frank Stanton Professor of the First Amendment, Harvard Law School

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<sup>2</sup> Institutional affiliations are provided solely for purposes of identification.

**CERTIFICATE OF SERVICE**

I hereby certify that on March 31, 2025, I caused the foregoing **NOTICE OF MOTION AND MOTION FOR LEAVE TO FILE *AMICI CURIAE* BRIEF** to be served by electronic means via the Court's CM/ECF system on all counsel registered to receive electronic notices.

/s/ Christopher Ridder

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